

REMARKS**Status of the Claims**

Upon entry of the amendment above, claims 1, 2, 4-6, 8-10, 13, and 15-32 will be pending, claims 1, 25, 28, and 32 being independent.

Summary of the Office Action

Claims 1-24 are rejected under 35 USC §112, second paragraph, as being indefinite, in view of the expression "said base plate" in line 3, which should have been "said base."

Claims 1-15, 18, 19, and 23 are rejected under 35 USC §102(e) as being anticipated by REUSS et al. (U.S. Patent No. 6,250,651, hereinafter "REUSS"), as set forth in Section 6 of the Office action, beginning on page 3.

Claims 16 and 17 are rejected under 35 USC §103(a) as being unpatentable over REUSS, as set forth in Section 8 of the Office action on page 5.

Claims 20, 24, 25, 28, and 28 are rejected under 35 USC §103(a) as being unpatentable over REUSS in view of BUMGARNER (U.S. Patent No. 5,758,895), as set forth in Section 9 of the Office action, beginning on page 5.

Claims 21, 22, 26, and 27 are identified as containing allowable subject matter.

Response to the Office Action**A. Summary of Amendment and Request for Entry**

In the amendment above, four claims are canceled (*viz.*, claims 3, 7, 11, 12, claim 14 having been canceled previously) and three claims are added (*viz.*, claims 30-32).

In addition to reducing the total number of claims, Applicant has confined the new claims generally to subject matter about which Applicant's representative and the Examiner have exchanged opinions. Accordingly, Applicant kindly requests that the amendment be entered and not be characterized as raising a new issue.

In addition, claim 1 has been amended for the purpose of addressing the issue raised in connection with the above-mentioned indefiniteness rejection.

Dependent claim 30 depends from claim 2 and is directed to a more detailed description of the feature of the invention manifested in the final subparagraph of independent claim 1. More particularly, claim 30 is directed to the binding of the invention including a front linkage and a rear linkage (note front linkage 13 and rear linkage 14, *e.g.* in Figs. 1 and 5), whereby in a forward boot-removed position (Fig. 5, *e.g.*) both of the front and rear linkages have lengths sufficient to extend forwardly beyond the front end the base, while the first and second bands of the linkages remain connected together.

The significance of this feature is explained, *e.g.*, in paragraphs 52-55 of the specification of the instant application.

Dependent claim 31 further specifies the range of lengths of the front and rear linkages which facilitate this feature of the invention.

Lastly, independent claim 32 is a variation/alternative to the subject matter of a combination of claims 1 and 2, although claim 32 includes a further limitation, *viz.*, for each of the first and second bands of the linkage, they extend longitudinally straight from their respective fasteners to the tightening device. The significance of this limitation is further explained below. In short, the limitation relates to the feature whereby in the boot-removed position the linkage can generally flat, substantially along a plane parallel to the plane of the base.

B. Withdrawal of Rejection Under 35 USC §112, Second Paragraph

In the amendment above, Applicant has amended claim 1 to change "said base plate" to "said base." Accordingly, the lack of antecedent basis for the former expression has been resolved.

Therefore, reconsideration and withdrawal of the rejection is requested.

C. Withdrawal of Rejections Under 35 USC §§102, 103

Applicant requests that the rejections based upon REUSS, alone or in combination with BUMGARNER, be reconsidered and withdrawn.

Before discussing the rejections themselves, Applicant notes that dependent claim 23 is directed to subject matter relating to the abutment (such as that shown in the example of Fig. 6) which is also recited in claim 28. Applicant submits that REUSS fails to teach or suggest such an abutment and that the rejection for anticipation of claim 23 based upon REUSS be withdrawn. Claim 28, Applicant notes is rejected upon a combination of REUSS and BUMGARNER.

In this response, Applicant confines his arguments to two particular features of the invention, although he does not intend to imply that other features/limitations in the claims do not support additional arguments for patentability.

The first feature relates to the orientation of a linkage (such as linkage 13 in the exemplary drawings) in a position in which the boot has been removed from the binding. This feature had been described in now-canceled claim 14, and is now present in independent claim 1, as well as new independent claim 32 and dependent claim 30. In addition, dependent claims 16, 17, and new dependent claim 31 are directed to such subject matter.

The second feature relates to the shapes of the abutments (such as abutments 60 and 70 in Figs. 6 and 7, for example).

2. First Feature -- Linkage in Boot-Removed Position**a. Summary of Previous Arguments**

In Applicant's previous amendment, he had amended independent claim 1 by incorporating therein the subject matter of former dependent claim 14. That amendment, therefore, added the feature, now found at the end of claim 1, "at least one linkage is movable relative to said first and second lateral flanges to a position extending substantially along a plane

parallel to said plane of said base."

The strap of REUSS is never contained in a plane parallel to the base. In this regard, column 6, lines 38-41 of REUSS explain that the linkage 20 is held above the horizontal plane of the base, when rotated forwardly, to maintain the linkage above the ground. In one embodiment of REUSS's apparatus, the linkage is to be held approximately 10° above the base (column 6, lines 46-49 of REUSS).

In the new Office action, in reply to Applicant's amendment and in reply to Applicant's argument in support thereof, the Examiner comments in Section 12, beginning near the bottom of page 6, that he is not persuaded. Although the Examiner acknowledges the aforementioned description in REUSS (relating to a 10° angle that the strap 20 is held "in one embodiment"), the Examiner explains that in column 6, lines 50-54 (i.e., in the sentence immediately following the mention of a 10° angle), REUSS states that "the straps and/or the base plate may be configured in any manner to hold the toe strap at *any* desired position relative to the base plate when rotated to the forward position."

b. Reply to Final Rejection Regarding First Feature

In column 1, lines 18-19, REUSS explains that straps commonly found in bindings have portions that must be separated from each other to completely loosen the strap.

To solve the problem of separation of the strap portions, it is an objective of REUSS to provide to provide an adjustable strap that limits separation of the strap portions from one another for quick and easy tightening and loosening of the strap. See column 1, lines 38-41.

One solution to such problem is given by REUSS at column 1, lines 44-53, where REUSS describes an adjustable strap comprising a first strap including a fastening device mounted at one end thereof, and a second strap extending through the fastening device to adjustably attach the second strap to the first strap. The fastening device has a locking mode and a release mode. A stop is provided to limit withdrawal of the second strap through the

fastening device when the fastening device is in the release mode to otherwise permit withdrawal of the second strap therethrough.

The goal of REUSS is achieved, for example, as described at column 3, lines 27-31. The stop may be configured to prevent withdrawal of the tip 30 of the ratchet strap 26 through the buckle 24 so that the strap may be readily tightened without having to align and reinsert the ratchet stop 26 through the buckle 24.

The foregoing clearly demonstrates that, in view of REUSS, one skilled in the art would not have been directed to Applicant's first feature, whereby "at least one linkage is movable relative to said first and second lateral flanges to a position extending substantially along a plane parallel to said plane of said base."

A complementary disclosure of REUSS is that the adjustable strap 20 and/or the base plate 72 may be configured to hold the strap above the horizontal plane of the base plate when rotated to the forward position to maintain the toe strap 20 above the ground (see column 6, lines 39-42). REUSS's need is that the strap always stays positioned above the ground. That is why he uses an abutment, such as abutment 90, provided on the base plate 72. Each strap may have a contoured forward edge 92 that conforms closely to the shape of the abutment (see column 6, lines 44-47).

The abutment 90 and straps 22, 26 are configured to hold the toe strap approximately 10° above the horizontal plane of the base plate, as explained in column 6, lines 44-50 of REUSS.

According to the requirement of REUSS, the structures of the about 90 and straps 22, 26 are like a stop beyond which the straps must not go. And where REUSS explains that the straps and/or the base plate may be configured in any manner to hold the toe strap 20 at any desired position relative to the base plate when rotated to the forward position (see column 6, lines 48-54), this means, in the context of REUSS's disclosure, that such position is 10° or more. In case the strap were to go to the bottom, *i.e.*, less than 10°, tightening of the strap

would become more complicated and the user would be unable as easily to manipulate the strap. In any event, this would be contrary to REUSS's teachings and objectives.

At least in view of the foregoing, Applicant requests that the rejection of claim 1 and the claims depending therefrom be reconsidered and withdrawn.

In new independent claim 32, which expresses a variation/alternative of the subject matter of a combination of claims 1 and 2, as mentioned above, Applicant calls for each of the first and second bands of the linkage to extend longitudinally straight from their respective fasteners to the tightening device. By contrast, if the REUSS linkage were rotated forwardly to be positioned parallel to the plane of the base plate, the linkage 20 of REUSS would still appear to be positioned above the plane of the base plate because of the "dogleg" ends of the linkage (see the ends of the linkage 20 in Figs. 1 and 2 of REUSS, at journals/apertures 28).

In new dependent claim 30, Applicant calls for front and rear linkages (note front linkage 13 and rear linkage 14, *e.g.* in Figs. 1 and 5), whereby in a forward boot-removed position (Fig. 5, *e.g.*) both of the front and rear linkages have lengths sufficient to extend forwardly beyond the front end the base, while the first and second bands of the linkages remain connected together. This construction facilitates ease of entry and removal of the boot from the binding, as explained, *e.g.*, in paragraphs 52-55 of the specification of the instant application.

Dependent claim 31 and dependent claims 16 and 17 further specify the range of lengths of the front and rear linkages which facilitate this feature of the invention.

3. Second Feature -- Shapes of the Abutment

a. Summary of Previous Arguments

In Applicant's previous amendment, he had amended added new independent claims 25 and 28 to describe the shapes of the abutments shown in Figs. 6 and 7, as well as dependent claims 26, 27 (depending from claim 25) and dependent claim 29 (depending from claim 28). In addition, he had added claims 20-24, which depend indirectly from independent claim 1, and

which also describe the abutment shapes; thereby, these claims 20-24 include subject matter of the first and second features mentioned above.

Independent claim 25 encompasses the shape shown in Applicant's Fig. 7, whereby the free end of the abutment has a laterally tapered shape and a pair of lateral teeth, and independent claim 28 encompasses the shape shown in Applicant's Fig. 6, whereby the abutment 60 projects from the surface 63 of the band.

Applicant acknowledges with appreciation the Examiner's indication of the allowability of claims 21, 22, 26, and 27. The remaining ones of these claims, *i.e.*, those directed to the second feature of the invention, have been rejected upon a combination of REUSS and BUMGARNER (with the exception of dependent claim 23, which, as mentioned above, is rejected only upon REUSS, although it includes subject matter similar to that of claim 25).

Regarding the subject matter of Fig. 7 (abutment having lateral teeth (such as elements 73, 74)), recited in claims 20 and 25, the Examiner now relies upon BUMGARNER (see the beginning of the Examiner's sentence that bridges pages 5 and 6 of the Office action), and points out that the first band of BUMGARNER in Fig. 1 has a pair of lateral teeth. He takes the position that it would have been obvious to have modified the end of a band of REUSS to have lateral teeth, as taught by BUMGARNER.

Regarding the subject matter of Applicant's Fig. 6 (abutment 60 extending away from the outer surface 63 of the band 61, recited in claim 28, the Examiner also relies upon BUMGARNER (see the remainder of the Examiner's sentence bridging pages 5 and 6 of the Office action). Claims 24 and 29, also encompassing Fig. 6, are more specifically directed to the "wedge" shape of the abutment.

b. Reply to Final Rejection Regarding Second Feature

First, Applicant notes that the wedge 24 of BUMGARNER, upon which the Examiner relies, is actually part of the connection between the end of the strap and the sides of the base

plate, and not the connection between one of the bands of the linkage and the tightening device. For that connection, BUMGARNER is relied upon for the lateral teeth detail referred to above in connection with the rejection of claims 20 and 25.

Further, regarding independent claims 25 and 28 and the dependent claims rejected on the basis of a combination of REUSS and BUMGARNER, Applicant has noticed that in REUSS one linkage is comprised of a first and a second band, however REUSS does not teach or suggest a pair of lateral teeth as in claim 25, nor an abutment extending away from an outer surface of a first band, as in claim 28.

A pair of lateral teeth or an abutment extending away from a surface are shown in BUMGARNER, but the linkage of BUMGARNER is comprised of a first strap 4, a second strap 6, a locking bar 8, and a locking means 12. Of course, as explained in Applicant's previous amendment, the goal of BUMGARNER is to open or close the binding very quickly, and the locking bar 8 helps in operating first strap 4 and second strap 6 at the same time.

Each strap 4, 6 is comprised of two bands and an abutment comprising a pair of lateral teeth. But such teeth are never used during use of the board, *i.e.*, while riding. They are only useful for the making of the binding. After the adjustment of the binding relative to the boot has been completed, the user never uses the abutment.

An abutment extending away from an outer surface of a first band is not shown in BUMGARNER. BUMGARNER only explains that a tongue 22 is attached to the locking bar 8 (column 3, lines 45-46), and that a tapered end 221 of tongue 22 is inserted into the locking means (column 4, lines 4-5). Accordingly, the tapered end of BUMGARNER only helps in locking the bar, *not* a band of a linkage.

At least in view of the foregoing, Applicant requests that the rejection of claims 25, 28 and the claims depending therefrom and/or containing limitations relating to the above-mentioned second feature, be reconsidered and withdrawn.

SUMMARY AND CONCLUSION

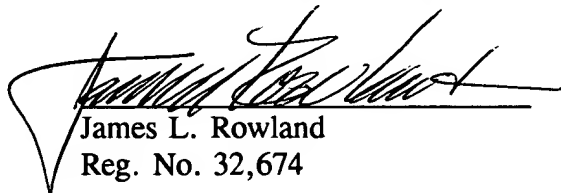
The grounds of rejection advanced in the Office action have been addressed and are believed to be overcome. Reconsideration and allowance are respectfully requested in view of the amendment and remarks above.

A check is enclosed for payment of an independent claim fee. No additional fee is believed to be due at this time. However, the Commissioner is authorized to charge any fee required for acceptance of this reply as timely and complete to Deposit Account No. 19-0089.

Further, although no extension of time is believed to be necessary at this time, if it were to be found that an extension of time were necessary to render this reply timely and/or complete, Applicant requests an extension of time under 37 CFR 1.136(a) in the necessary increment(s) of month(s) to render this reply timely and/or complete and the Commissioner is authorized to charge any necessary extension of time fee under 37 CFR 1.17 to Deposit Account No. 19-0089.

Any comments or questions concerning this application can be directed to the undersigned at the telephone or fax number given below.

Respectfully submitted,
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